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 INTERCONTINENTAL HOTELS GROUP RESOURCES,
 INC.; INTERCONTINENTAL HOTELS OF SAN
 FRANCISCO, INC.; SIX CONTINENTS HOTELS, INC.

[additional counsel on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LAURA MCCABE and LATROYA SIMPSON,
 individually and on behalf of similarly situated
 individuals,

Plaintiffs,

v.

INTERCONTINENTAL HOTELS GROUP
 RESOURCES, INC.; INTERCONTINENTAL
 HOTELS OF SAN FRANCISCO, INC.; SIX
 CONTINENTS HOTELS, INC.; and DOES 2
 through 10, inclusive,

Defendants.

CASE NO. C12-4818-NC

STIPULATED PROTECTIVE ORDER

Complaint Filed: July 8, 2012
 FAC Filed: July 19, 2012
 Trial Date: None

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on

1 all disclosures or responses to discovery and that the protection it affords from public disclosure
2 and use extends only to the limited information or items that are entitled to confidential treatment
3 under the applicable legal principles. The parties further acknowledge, as set forth in Section
4 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential
5 information under seal; Civil Local Rule 79-5 and General Order 62 set forth the procedures that
6 must be followed and the standards that will be applied when a party seeks permission from the
7 court to file material under seal.

8 **2. DEFINITIONS**

9 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
10 information or items under this Order.

11 2.2 "CONFIDENTIAL" Information or Items: information (regardless of how it is
12 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule
13 of Civil Procedure 26(c).

14 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as
15 well as their support staff).

16 2.4 Designating Party: a Party or Non-Party that designates information or items that
17 it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

18 2.5 Disclosure or Discovery Material: all items or information, regardless of the
19 medium or manner in which it is generated, stored, or maintained (including, among other things,
20 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
21 responses to discovery in this matter.

22 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to
23 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
24 consultant in this action.

25 2.7 House Counsel: attorneys who are employees of a party to this action. House
26 Counsel does not include Outside Counsel of Record or any other outside counsel.

1 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal
2 entity not named as a Party to this action.

3 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this
4 action but are retained to represent or advise a party to this action and have appeared in this action
5 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

6 2.10 Party: any party to this action, including all of its officers, directors, employees,
7 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

8 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
9 Material in this action.

10 2.12 Professional Vendors: persons or entities that provide litigation support services
11 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
12 organizing, storing, or retrieving data in any form or medium) and their employees and
13 subcontractors.

14 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
15 “CONFIDENTIAL.”

16 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
17 Producing Party.

18 **3. SCOPE**

19 The protections conferred by this Stipulation and Order cover not only Protected Material
20 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)
21 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
22 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
23 However, the protections conferred by this Stipulation and Order do not cover the following
24 information: (a) any information that is in the public domain at the time of disclosure to a
25 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as
26 a result of publication not involving a violation of this Order, including becoming part of the
27 public record through trial or otherwise; and (b) any information known to the Receiving Party
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1 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who
2 obtained the information lawfully and under no obligation of confidentiality to the Designating
3 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

4 **4. DURATION**

5 Even after final disposition of this litigation, the confidentiality obligations imposed by
6 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
7 order otherwise directs. Final disposition shall be deemed to be (1) dismissal of all claims and
8 defenses in this action, with or without prejudice; or (2) final judgment herein after the
9 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
10 including the time limits for filing any motions or applications for extension of time pursuant to
11 applicable law.

12 **5. DESIGNATING PROTECTED MATERIAL**

13 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party
14 or Non-Party that designates information or items for protection under this Order must take care
15 to limit any such designation to specific material that qualifies under the appropriate standards.
16 The Designating Party must designate for protection only those parts of material, documents,
17 items, or oral or written communications that qualify – so that other portions of the material,
18 documents, items, or communications for which protection is not warranted are not swept
19 unjustifiably within the ambit of this Order.

20 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
21 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
22 unnecessarily encumber or retard the case development process or to impose unnecessary
23 expenses and burdens on other parties) expose the Designating Party to sanctions.

24 If it comes to a Designating Party's attention that information or items that it designated
25 for protection do not qualify for protection, that Designating Party must promptly notify all other
26 Parties that it is withdrawing the mistaken designation.

1 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
2 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
3 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
4 designated before the material is disclosed or produced.

5 Designation in conformity with this Order requires:

6 (a) for information in documentary form (e.g., paper or electronic documents, but
7 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
8 Party affix the legend “CONFIDENTIAL” to each page that contains protected material. If only a
9 portion or portions of the material on a page qualifies for protection, the Producing Party also
10 must clearly identify the protected portion(s) (e.g., by making appropriate markings in the
11 margins).

12 A Party or Non-Party that makes original documents or materials available for inspection
13 need not designate them for protection until after the inspecting Party has indicated which
14 material it would like copied and produced. During the inspection and before the designation, all
15 of the material made available for inspection shall be deemed “CONFIDENTIAL.” After the
16 inspecting Party has identified the documents it wants copied and produced, the Producing Party
17 must determine which documents, or portions thereof, qualify for protection under this Order.
18 Then, before producing the specified documents, the Producing Party must affix the
19 “CONFIDENTIAL” legend to each page that contains Protected Material. If only a portion or
20 portions of the material on a page qualifies for protection, the Producing Party also must clearly
21 identify the protected portion(s) (e.g., by making appropriate markings in the margins).

22 (b) for testimony given in deposition or in other pretrial proceedings, that the
23 Designating Party identify, within 14 days after the transcript for the deposition, hearing, or other
24 proceeding, all protected testimony.

25 (c) for information produced in some form other than documentary and for any
26 other tangible items, that the Producing Party affix in a prominent place on the exterior of the
27 container or containers in which the information or item is stored the legend “CONFIDENTIAL.”
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1 If only a portion or portions of the information or item warrant protection, the Producing Party, to
2 the extent practicable, shall identify the protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
4 designate qualified information or items does not, standing alone, waive the Designating Party's
5 right to secure protection under this Order for such material. Upon timely correction of a
6 designation, the Receiving Party must make reasonable efforts to assure that the material is
7 treated in accordance with the provisions of this Order.

8 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

9 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
10 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
11 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
12 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
13 challenge a confidentiality designation by electing not to mount a challenge promptly after the
14 original designation is disclosed.

15 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
16 process by providing written notice of each designation it is challenging and describing the basis
17 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written
18 notice must recite that the challenge to confidentiality is being made in accordance with this
19 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in
20 good faith and must begin the process by conferring directly (in voice to voice dialogue; other
21 forms of communication are not sufficient) within 14 days of the date of service of notice. In
22 conferring, the Challenging Party must explain the basis for its belief that the confidentiality
23 designation was not proper and must give the Designating Party an opportunity to review the
24 designated material, to reconsider the circumstances, and, if no change in designation is offered,
25 to explain the basis for the chosen designation. A Challenging Party may proceed to the next
26 stage of the challenge process only if it has engaged in this meet and confer process first or
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1 establishes that the Designating Party is unwilling to participate in the meet and confer process in
2 a timely manner.

3 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
4 intervention, the Designating Party shall file and serve a motion to retain confidentiality under
5 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5 and General Order 62, if
6 applicable) within 21 days of the initial notice of challenge or within 14 days of the parties
7 agreeing that the meet and confer process will not resolve their dispute, whichever is earlier. Each
8 such motion must be accompanied by a competent declaration affirming that the movant has
9 complied with the meet and confer requirements imposed in the preceding paragraph. Failure by
10 the Designating Party to make such a motion including the required declaration within 21 days (or
11 14 days, if applicable) shall automatically waive the confidentiality designation for each
12 challenged designation. In addition, the Challenging Party may file a motion challenging a
13 confidentiality designation at any time if there is good cause for doing so, including a challenge to
14 the designation of a deposition transcript or any portions thereof. Any motion brought pursuant to
15 this provision must be accompanied by a competent declaration affirming that the movant has
16 complied with the meet and confer requirements imposed by the preceding paragraph.

17 The burden of persuasion in any such challenge proceeding shall be on the Designating
18 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
19 unnecessary expenses and burdens on other parties) may expose the Challenging Party to
20 sanctions. Unless the Designating Party has waived the confidentiality designation by failing to
21 file a motion to retain confidentiality as described above, all parties shall continue to afford the
22 material in question the level of protection to which it is entitled under the Producing Party's
23 designation until the court rules on the challenge.

24 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

25 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
26 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
27 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
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1 the categories of persons and under the conditions described in this Order. When the litigation has
2 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
3 DISPOSITION).

4 Protected Material must be stored and maintained by a Receiving Party at a location and
5 in a secure manner that ensures that access is limited to the persons authorized under this Order.

6 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
7 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
8 information or item designated "CONFIDENTIAL" only to:

9 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
10 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
11 information for this litigation;

12 (b) the officers, directors, and employees (including House Counsel) of the
13 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have
14 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

15 (c) any additional plaintiffs or class representatives added or joined in this
16 proceeding, provided however that each plaintiff or class representative given access to Protected
17 Material shall be advised such information or items are being disclosed pursuant to, and are
18 subject to, the terms of this Stipulated Protective Order and that they may not be disclosed other
19 than pursuant to its terms;

20 (d) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
21 reasonably necessary for this litigation and who have signed the "Acknowledgment and
22 Agreement to Be Bound" (Exhibit A);

23 (f) the court and its personnel;

24 (f) court reporters and their staff;

25 (g) professional jury or trial consultants, mock jurors, and Professional Vendors to
26 whom disclosure is reasonably necessary for this litigation and who have signed the
27 "Acknowledgment and Agreement to Be Bound" (Exhibit A);
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1 (h) during their depositions, witnesses in the action to whom disclosure is
2 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
3 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of
4 transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be
5 separately bound by the court reporter and may not be disclosed to anyone except as permitted
6 under this Stipulated Protective Order.

7 (i) the author or recipient of a document containing the information or a custodian
8 or other person who otherwise possessed, knew, or had access to the information.

9 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
10 **OTHER LITIGATION**

11 If a Party is served with a subpoena or a court order issued in other litigation that compels
12 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party
13 must:

14 (a) promptly notify in writing the Designating Party. Such notification shall
15 include a copy of the subpoena or court order;

16 (b) promptly notify in writing the party who caused the subpoena or order to issue
17 in the other litigation that some or all of the material covered by the subpoena or order is subject
18 to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order;
19 and

20 (c) cooperate with respect to all reasonable procedures sought to be pursued by
21 the Designating Party whose Protected Material may be affected.

22 If the Designating Party timely seeks a protective order, the Party served with the
23 subpoena or court order shall not produce any information designated in this action as
24 “CONFIDENTIAL” before a determination by the court from which the subpoena or order
25 issued, unless the Party has obtained the Designating Party’s permission. The Designating Party
26 shall bear the burden and expense of seeking protection in that court of its confidential material –
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1 and nothing in these provisions should be construed as authorizing or encouraging a Receiving
2 Party in this action to disobey a lawful directive from another court.

3 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
4 **THIS LITIGATION**

5 (a) The terms of this Order are applicable to information produced by a Non-
6 Party in this action and designated as "CONFIDENTIAL." Such information produced by Non-
7 Parties in connection with this litigation is protected by the remedies and relief provided by this
8 Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking
9 additional protections.

10 (b) In the event that a Party is required, by a valid discovery request, to
11 produce a Non-Party's confidential information in its possession, and the Party is subject to an
12 agreement with the Non-Party not to produce the Non-Party's confidential information, then the
13 Party shall:

14 (1) promptly notify in writing the Requesting Party and the Non-Party
15 that some or all of the information requested is subject to a confidentiality agreement with a Non-
16 Party;

17 (2) promptly provide the Non-Party with a copy of the Stipulated
18 Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific
19 description of the information requested; and

20 (3) make the information requested available for inspection by the
21 Non-Party.

22 (c) If the Non-Party fails to object or seek a protective order from this court
23 within 14 days of receiving the notice and accompanying information, the Receiving Party may
24 produce the Non-Party's confidential information responsive to the discovery request. If the Non-
25 Party timely seeks a protective order, the Receiving Party shall not produce any information in its
26 possession or control that is subject to the confidentiality agreement with the Non-Party before a
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determination by the court.¹ Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

¹ The purpose of this provision is to alert the interested parties to the existence of confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to protect its confidentiality interests in this court.

1 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
2 Order no Party waives any right it otherwise would have to object to disclosing or producing any
3 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
4 Party waives any right to object on any ground to use in evidence of any of the material covered
5 by this Protective Order.

6 12.3 Filing Protected Material. Without written permission from the Designating Party
7 or a court order secured after appropriate notice to all interested persons, a Party may not file in
8 the public record in this action any Protected Material. A Party that seeks to file under seal any
9 Protected Material must comply with Civil Local Rule 79-5 and General Order 62. Protected
10 Material may only be filed under seal pursuant to a court order authorizing the sealing of the
11 specific Protected Material at issue. Pursuant to Civil Local Rule 79-5 and General Order 62, a
12 sealing order will issue only upon a request establishing that the Protected Material at issue is
13 privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a
14 Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-
15 5(d) and General Order 62 is denied by the court, then the Receiving Party may file the
16 information in the public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed
17 by the court.

18 12.4 Use of Confidential Information or Items at Trial. This Stipulation and Protective
19 Order does not apply to the use of Protected Material at trial in this action. The use of
20 Confidential Information at trial will be governed by a separate stipulated protective order that
21 Parties will ask the Court to issue before any trial in the above-captioned action.

22 **13. FINAL DISPOSITION**

23 Within 400 days after the final disposition of this action, as defined in paragraph 4, each
24 Receiving Party must return all Protected Material to the Producing Party or destroy such
25 material. As used in this subdivision, "all Protected Material" includes all copies, abstracts,
26 compilations, summaries, and any other format reproducing or capturing any of the Protected
27 Material. Whether the Protected Material is returned or destroyed, the Receiving Party must
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submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 400 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: March 19, 2013

KELLER GROVER LLP

By /s/ Eric A. Grover

ERIC A. GROVER

Attorneys for Plaintiffs

LAURA McCABE and LATROYA SIMPSON

Dated: March 19, 2013

DLA PIPER LLP (US)

By /s/ Monica D. Scott

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Attorneys for Defendants

INTERCONTINENTAL HOTELS GROUP

RESOURCES, INC.; INTERCONTINENTAL

HOTELS OF SAN FRANCISCO, INC.; SIX

CONTINENTAL HOTELS, INC.

PURSUANT TO STIPULATION, IT IS SO

IT IS SO ORDERED

Nathanael M. Cousins
Judge Nathanael M. Cousins

United States Magistrate Judge

Dated: March 19, 2013

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of perjury that I have read
 in its entirety and understand the Stipulated Protective Order that was issued by the United States
 District Court for the Northern District of California on [date] in the case of *Laura McCabe, et al.*
v. InterContinental Hotels Group Resources, Inc., et al., Case No. C12-4818-NC. I agree to
 comply with and to be bound by all the terms of this Stipulated Protective Order and I understand
 and acknowledge that failure to so comply could expose me to sanctions and punishment in the
 nature of contempt. I solemnly promise that I will not disclose in any manner any information or
 item that is subject to this Stipulated Protective Order to any person or entity except in strict
 compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for
 the Northern District of California for the purpose of enforcing the terms of this Stipulated
 Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

 [printed name] [signature]